



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,799	06/08/2000	Baljeet Singh Baweja	AUS0000172.US1	9729

7590 11/19/2004
International Business Machines Corporation
Intellectual Property Law Department
Internal Zip 4054
11400 Burnet Road
Austin, TX 78758

EXAMINER

PATEL, HARESH N

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,799

Applicant(s)

BAWEJA ET AL.

Examiner

Haresh Patel

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-12 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-12 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3-7, 9-12, 14-17, are presented for examination. Claims 2, 8, 13, 18-20 are cancelled.

Response to Arguments

2. Applicant's arguments filed 7/31/04 have been fully considered but they are not persuasive. Therefore, rejection of claims 1, 3-7, 9-12, 14-17, is maintained.

Applicant argues (1), "Currently amended independent claims 1, 7, and 12, respectively, present original claims, 2, 8, and 13". The examiner respectfully disagrees in response to applicant's arguments. For example, none of the original claims, including claims 1, 7, 12, and/or 2, 8, and 13, included limitation, displaying queue/stored messages. Hence, the currently presented claims 1, 3-7, 9-12, 14-17, do contain additional limitations, compared to the originally presented claims. Therefore, all the presented claims are considered to be amended claims.

Applicant argues (2), "Gossler et al., 5,799,173 (Hereinafter Gossler), is owned by the same assignee of this application. Hence, Gossler patent cannot be used to preclude patentability based upon 35 U.S.C. 103 (c)". The examiner respectfully disagrees in response to applicant's arguments. Gossler patent was published on Aug. 25, 1998, and the present applicant has an effective date of November 29, 1999. Hence, Gossler patent is a valid prior art for 35. U.S.C. 102(a) rejection, and is a valid prior art for 35 U.S.C 103 (a) rejection. Therefore, the rejection is maintained as disclosed above.

Applicant argues (3), the combined cited arts do not disclose, "Workload balancing in the distribution of data processing transactions wherein the messages into which the transactions are

Art Unit: 2154

allocated are in turn stored in displayable queues assigned to the computer systems and servers to which the messages were allocated. From the displayable queues, the messages are allocated and reallocated to other computer systems by interactive users using the display of the allocated and the reallocated message queues". The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies "Workload balancing in the distribution of data processing transactions wherein the messages into which the transactions are allocated are in turn stored in displayable queues assigned to the computer systems and servers to which the messages were allocated. From the displayable queues, the messages are allocated and reallocated to other computer systems by interactive users using the display of the allocated and the reallocated message queues" is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim is open-ended (comprising). Also, page 14, lines 19-24, clearly states, "Although certain preferred embodiments have been shown and described, it will be understood that many changes and modifications may be made therein without departing from the scope and intent of the appended claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of these actions. Therefore the rejection is maintained as disclosed above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2154

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Amended claims 1, 3-7, 9-12, 14-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobe et al. 5,778,224 (Hereinafter Tobe) in view of Kitagawa et. al. 6,578,159 (Hereafter Kitagawa) in view of "Official Notice".

5. As per claims 1, 3, 7, 9, 12, 14, Tobe teaches a system, a method and a computer readable medium to perform the following:

a workload balancing system for distributing data processing transactions (e.g. executing a plurality of transactions and a distributed processing system, abstract) into a plurality of messages (e.g., distributed messages among the computers, abstract) and for dynamically allocating each of said messages to different computer systems for performance (e.g., distribution of transactions to all the computers and the execution of transactions based on distribution arrangement, abstract) comprising,

means for requesting the performance of a data processing transaction (e.g., management node receiving accumulation completion notifications from all nodes and establishing synchronization with all the nodes, figure 5),

a server computer for said distributing and allocating said transaction to different computer systems (e.g., distribution node distributing transactions to the computers for handling the transactions, abstract).

user interactive display means for displaying transactions and associated computer systems (e.g., screens displaying information related to each job assigned to the associated processing node, figures 2, 3, 4, 7 and 8).

However, Tobe does not specifically mention about splitting a transaction into a plurality of messages.

Kitagawa teaches splitting a transaction into a plurality of messages (e.g., splitting a transaction into more than one transactions, figure 5A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tobe with the teachings of Kitagawa in order to facilitate creation of multiple messages for a single transaction. Multiple messages created from a single transaction can be individually processed in parallel by the assigned computer system. The parallel execution of the parts of the transaction by different computer systems will help quick processing a transaction rather than a transaction processed by a single computer system, as suggested by Kitagawa.

Tobe and Kitagawa do not specifically mention about using a queue for storing messages before being displayed.

“Official Notice” is taken that both the concept and advantages of providing a server queue for storing messages before being displayed and each of different computer systems having an associated queue for storing messages allocated to each respective computer system, is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a server queue for storing messages before being displayed and each of

Art Unit: 2154

different computer systems having an associated queue for storing messages allocated to each respective computer system, with the teachings of Tobe and Kitagawa in order to facilitate sequencing the messages using a queue to retain the messages as they are received and before they are displayed. The well-known concept of using queues in the system, for example, Gossler et. al. 6,578,159 (Hereafter Gossler) teaches each service unit comprising a queue for receiving and queuing the incoming message, abstract, would help computer modules utilize necessary number of queues for storing the messages, that are directed the respective computer module.

6. As per claims 6 and 17, Tobe teaches the following:

an interactive display computer including said means for requesting the performance of a data processing transaction and user interactive display means for displaying said allocated messages and associated computer systems (e.g., screen display requesting information to be displayed for a user and displaying job assigned to each associated node for processing, figures 2, 3, 4, 7 and 8).

7. As per claims 4, 10 and 15, Tobe and Kitagawa discloses the claimed limitations rejected under claims 3, 9, and 14. However, Tobe and Kitagawa do not specifically mention about a different computer system having means for reallocating to other computer systems, messages initially allocated to said one computer system.

“Official Notice” is taken that both the concept and advantages of providing a different computer system having means for reallocating to other computer systems, is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a different computer system having means for reallocating to other computer systems, with the teachings of Tobe and Kitagawa in order to facilitate reallocating of the transaction message to another computer system for processing, which is a well-known concept, for example, Gossler teaches, assigned computer system requesting another computer system to process the assigned transaction messages to process during workload conditions, col., 2, line 50 - col., 3, line 49. So, when the assigned computer system has several messages to be processed, it will pass the received transaction to the other computer system, hence the transaction messages processing will be handled quicker.

8. As per claims 5, 11, 16, Tobe and Kitagawa discloses the claimed limitations rejected under claims 4, 10, and 15. However, Tobe and Kitagawa do not specifically mention about displaying said reallocated messages. "Official Notice" is taken that both the concept and advantages of providing display of reallocated messages is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include display of reallocated messages with the teachings of Tobe and Kitagawa in order to facilitate a user to view the reallocated messages assigned to the computer system. After reallocation, the user interface will display the updated computer system, which is assigned to process the reallocated transaction message.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 2154

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

November 2, 2004


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100